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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,688	08/15/2001	Raymond F. Cracauer	FORS-06497	1594
23535	7590	08/19/2003		
MEDLEN & CARROLL, LLP 101 HOWARD STREET SUITE 350 SAN FRANCISCO, CA 94105			EXAMINER	
			HANDY, DWAYNE K	
		ART UNIT	PAPER NUMBER	
		1743		

DATE MAILED: 08/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

2a

<b>Office Action Summary</b>	Application N	Applicant(s)	
	09/930,688	CRACAUER ET AL.	
	Examiner	Art Unit	
	Dwayne K Handy	1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 06 June 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 3-10 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 3-10 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a).shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 3 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Den Berg et al. (5,302,347). Van Den Berg teaches an apparatus for cyclical temperature processing of DNA specimen. The apparatus includes a reactor space with a plurality of sample containers contained in a water bath heated by at least one magnetron tube (Abstract, Figure 1, and columns 2-3.)

3. Claims 3-5, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Mullis et al. (5,656,493). Mullis teaches a machine for performing nucleic acid amplification. The machine is comprised of reaction chambers that are pre-loaded with the reactants (including nucleotides) and then subjected to heating and cooling from any number of heating and cooling systems including resistive elements, Peltier devices and fluid heat exchangers (Abstract, Figures 1-3, and columns 16-18).

4. Claims 3, 4, 6 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Atwood et al. (5,681,741). Atwood teaches a system for PCR amplification comprised of a plurality of reaction containers formed on slides and heated by resistive heating elements and through preheating of reactants. (Abstract and columns 13-16).

5. Claims 3 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Mutterer, Jr. et al. (6,258,329) or Hargett, Jr. (6,287,526). Mutterer, Jr. and Hargett, Jr. both show systems comprised of a plurality of reaction vessels heated by a microwave heating component.

6. Claims 3, 4, 7 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Hayes et al. (6,334,980). Hayes teaches a miniaturized device for the parallel processing of biological samples comprised of reaction chambers in contact with independently controllable heaters and coolers including resistive heaters (column 5) and magnetic induction devices (column 9).

7. Claims 3, 4, 6, 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Lipshutz et al. (5,856,174). Lipshutz teaches a miniaturized integrated nucleic acid diagnostic device comprised of heated chambers. The heating elements and/or methods include the use of resistive heaters, heated reagents, lasers and electromagnetic radiation (columns 18-19).

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Moore et al. (6,224,832), Kilcoin et al. (6,190,619), Bach et al. (6,413,780), Turner et al. (6,508,984), and Dales (6,548,026) are cited as further examples of devices with a plurality of reaction vessels or chambers with a heating component configured to heat one or more of the vessels during a reaction.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwayne K Handy whose telephone number is (703)-305-0211. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (703)-308-4037. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9310 for regular communications and (703)-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0661.

dkh  
August 9, 2003

*Jill Warden*  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700